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MITIGATED NEGATIVE DECLARATION

Project Name: Dictionary Hill / Maria Avenue Rezone

Project Number(s): 3600 08-002 (REZ); 3500 10-010 (STP); 3910 08-19-003 (ER)

**This Document is Considered Draft Until it is Adopted by the Appropriate
County of San Diego Decision-Making Body.**

This Mitigated Negative Declaration is comprised of this form along with the
Environmental Initial Study that includes the following:

- a. Initial Study Form
 - b. Environmental Analysis Form and attached extended studies for
1. California Environmental Quality Act Mitigated Negative Declaration Findings:

Find, that this Mitigated Negative Declaration reflects the decision-making body's independent judgment and analysis, and; that the decision-making body has reviewed and considered the information contained in this Mitigated Negative Declaration and the comments received during the public review period; and that revisions in the project plans or proposals made by or agreed to by the project applicant would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; and, on the basis of the whole record before the decision-making body (including this Mitigated Negative Declaration) that there is no substantial evidence that the project as revised will have a significant effect on the environment.
 2. Required Mitigation Measures:

Refer to the attached Environmental Initial Study for the rationale for requiring the following measures:

1. **TRANSPORTATION IMPACT FEE:** The payment of the Transportation Impact Fee, which will be required at issuance of building permits, in combination with other components of this program, will mitigate potential cumulative traffic impacts to less than significant.
2. **OFF-SITE MITIGATION: [DPLU, PCC] [BP, GP, CP, UO] [DPR, GPM] [DPLU, FEE X2]** **Intent:** In order to mitigate for the impacts to 0.31-acre coastal sage scrub habitat, which is a sensitive biological resource pursuant to Biological Mitigation Ordinance (BMO) and California Environmental Quality Act as implemented by the County of San Diego Guidelines for Determining Significance for Biological Resources, offsite mitigation shall be acquired.
Description of Requirement: The applicant shall purchase habitat credit, or provide for the conservation of habitat of 0.31-acre of Tier II or higher Tier habitat credit, located in the MSCP as indicated below.
 - a. **Option 1:** If purchasing Mitigation Credit the mitigation bank shall be approved by the California Department of Fish & Game. The following evidence of purchase shall include the following information to be provided by the mitigation bank:
 1. A copy of the purchase contract referencing the project name and numbers for which the habitat credits were purchased.
 2. If not stated explicitly in the purchase contract, a separate letter must be provided identifying the entity responsible for the long-term management and monitoring of the preserved land.
 3. To ensure the land will be protected in perpetuity, evidence must be provided that a dedicated conservation easement or similar land constraint has been placed over the mitigation land.
 4. An accounting of the status of the mitigation bank. This shall include the total amount of credits available at the bank, the amount required by this project and the amount remaining after utilization by this project.
 - b. **Option 2:** If habitat credit cannot be purchased in a mitigation bank, then the applicant shall provide for the conservation of the same amount and type of

habitat located in a Pre-Approved Mitigation Area or Biological Resource Core Area of the MSCP as indicated below:

1. Prior to purchasing the land for the proposed mitigation, the location should be pre-approved by [DPLU].
2. A Resource Management Plan (RMP) shall be prepared and approved pursuant to the County of San Diego Biological Report Format and Content Requirements to the satisfaction of the Director of DPLU. If the offsite-mitigation is proposed to be managed by DPR, the RMP shall also be prepared and approved to the satisfaction of the Director of DPR.
3. An open space easement over the land shall be dedicated to the County of San Diego or like agency to the satisfaction of the Director of DPLU. The land shall be protected in perpetuity.
4. The purchase and dedication of the land and the selection of the Resource Manager and establishment of an endowment to ensure funding of annual ongoing basic stewardship costs shall be complete prior to the approval of the RMP.
5. In lieu of providing a private habitat manager, the applicant may contract with a federal, state or local government agency with the primary mission of resource management to take fee title and manage the mitigation land. Evidence of satisfaction must include a copy of the contract with the agency, and a written statement from the agency that (1) the land contains the specified acreage and the specified habitat, or like functioning habitat, and (2) the land will be managed by the agency for conservation of natural resources in perpetuity.

Documentation: The applicant shall purchase the off-site mitigation credits and provide the evidence to the [DPLU, PCC] for review and approval. If the offsite mitigation is proposed to be owned or managed by DPR, the applicant must provide evidence to the [DPLU PCC] that [DPR, GPM] agrees to this proposal. It is recommended that the applicant submit the mitigation proposal to the [DPLU, PCC], for a pre-approval. If an RMP is going to be submitted in-lieu of purchasing credits, then the RMP shall be prepared and an application for the RMP shall be submitted to the [DPLU, ZONING]. **Timing:** Prior to the Planning Commission hearing on this project, the mitigation shall occur. **Monitoring:** The [DPLU, PCC] shall review the mitigation purchase for compliance with this condition. Upon request from the applicant [DPLU, PCC] can pre-approve the location and type of mitigation only. The credits shall be purchased before the requirement can be completed. If the applicant chooses option #2, then the

[DPLU, ZONING] shall accept an application for an RMP, and [DPLU, REG] [DPR, GPM] shall review the RMP submittal for compliance with this condition and the RMP Guidelines.

3. REVEGETATION PLAN: [DPLU, REG] [BP, GP, CP, UO]

Intent: In order to mitigate for the impacts to the San Diego coast barrel cactus (*Ferocactus viridescens*), which is a sensitive biological resource pursuant to the Biological Mitigation Ordinance (BMO) and California Environmental Quality Act as implemented by the County of San Diego Guidelines for Determining Significance for Biological Resources, salvage and translocation of this species shall occur. **Description of Requirement:** A final Salvage and Translocation Plan shall be prepared, which mitigates impacts to the San Diego coast barrel cactus. The salvage shall occur on the project property (Polselli) and the translocation shall occur on San Miguel Habitat Management Area located in the City of Chula Vista and owned by the Otay Water District (APN#s 585-140-14, 21, 595-040-01, 04, 05). The final Salvage and Translocation Plan shall conform to the Salvage and Translocation Plan for the Polselli Property dated August 2010 (Vincent N. Scheidt), and the most current version of the [County of San Diego Report Format and Content Requirements for Revegetation Plans](#). The Salvage and Translocation Plan shall include the following:

- a. The monitoring plan shall be for a length of 5 years and have an 80 percent success criterion.
- b. A preservation plan over the translocation site shall be included in the Salvage and Translocation Plan. The preservation plan shall include evidence of dedication of an open space easement to the County of San Diego or evidence of protection in perpetuity by some other means to the satisfaction of the Director DPLU.
- c. The report shall be prepared by a County approved biologist and the construction plans shall be prepared by a State of California Licensed Landscape Architect.
- d. Revegetation objectives, revegetation site biological resource map, 24"x 36" landscape plan, map showing revegetation areas according to mitigation type and amount, site preparation information, type of planting materials (e.g. species ratios, source, size material, etc.), planting program, 80 percent success criteria, and a detailed cost estimate.

- e. A cost estimate based on a 3% annual inflation rate shall be submitted and approved, which includes the cost of the plant stock and its installation, irrigation system and installation, cost of monitoring and maintenance of the translocation site for the required monitoring period, and report preparation and staff time to review.

Documentation: The applicant shall prepare the Salvage and Translocation Plan pursuant to this condition and by using the [Applicants Guide to Preparing Revegetation Plans, DPLU Form # 717](#) then submit it to the [DPLU, ZONING] and pay all the applicable review fees and deposits. **Timing:** Prior to Planning Commission hearing and prior to any grading or issuance of any permits, the Revegetation Plan shall be approved and implemented. **Monitoring:** The [DPLU, LA] shall review the Revegetation Plan for conformance with this condition and the [Report Format and Content Requirements for Revegetation Plans](#). Upon approval of the Plan, a Director's Decision of approval shall be issued to the applicant, and a request for compliance with condition 3 shall be made to enter into a Secured Agreement for the implementation of the Plan.

4 **SECURED AGREEMENT: [DPLU, REG] [BP, GP, CP, UO]**

Intent: In order to assure project completion and success of the Salvage and Translocation Plan in condition 2, a surety shall be provided and an agreement shall be executed. **Description of Requirement:** The applicant shall enter into a Secured Agreement with the County of San Diego as follows:

- a. The security shall consist of a letter of credit, bond, or cash for 100 percent of the estimated costs associated with the implementation of the Revegetation Plan and,
- b. Provide a 10 percent cash deposit of the cost of all improvements, but no less than \$3,000 and no more than \$30,000.
- c. The monitoring time and the length of time the Secured Agreement and cash deposit will be in effect starts at the time the installation is accepted by a County staff representative. The Secured Agreement and cash deposit shall be released upon completion of the Salvage and Translocation Plan implementation provided the installed vegetation is in a healthy condition and meets the 80 percent success criteria. Eighty percent success rate shall be considered satisfactory completion of the Salvage and Translocation Plan.

Documentation: The applicant shall execute a Secured Agreement provided with the Salvage and Translocation Plan Final Decision, and provide the approved securities and the cash deposit for County monitoring time. The executed Agreement, cash deposit, and the securities shall be submitted to the

[DPLU, Landscape Architect] for final review and approval. **Timing:** Prior to Planning Commission, after the approval of the final Salvage and Translocation Plan, and before implementation of the final Salvage and Translocation Plan, of the agreement shall be executed and the securities provided for the implementation. **Monitoring:** The [DPLU, LA] shall review the Agreement cash deposit and securities provided are in compliance with this condition, and the Salvage and Translocation Plan Final Decision. The [DPLU, LA] shall sign the Agreement for the Director of DPLU and ensure the cash deposit is collected by [DPLU, FISCAL]. Upon acceptance of the Agreement, securities and cash deposit, the [DPLU, LA], shall provide a confirmation letter-acknowledging acceptance of securities.

NOTICE: The applicant will be required to pay the Department of Planning and Land Use Mitigation Monitoring and Condition Review Fee. The fee will be collected at the time of the first submittal for Condition Satisfaction to DPLU, including Mitigation Monitoring requests. The amount of the fee will be determined by the current Fee Ordinance requirement at the time of the first submittal and is based on the number of **2 DPLU conditions** that need to be satisfied. The fee amount will only be paid one time for those conditions that are indicated with the [DPLU, FEE] designator. The fee will not apply to subsequent project approvals that require a separate submittal fee such as, Revegetation and Landscape Plans, Resource (Habitat) Management Plans, Habitat Loss Permits, Administrative Permits, Site Plans, and any other discretionary permit applications.

The following notes shall be placed on the Site Plan and made conditions of the issuance of said permits. An email or disc will be provided with an electronic copy of the site plan note language.

BUILDING PERMIT: (Prior to approval of any building plan and the issuance of any building permit).

5. **BREEDING SEASON AVOIDANCE: Intent:** Ensure that disturbance of native songbirds and raptors will not occur during songbird breeding season.
- Description of Requirement:** The applicant shall either:
- (a) Place a note on Site Plan 10-010 stating "Any site brushing, grading, and/or removal of vegetation within 300 feet of the project site shall occur during the non-breeding season for native songbirds and raptors, defined as September 1st to February 14th. Limiting activities to the non-breeding season will minimize the chances for the incidental take of migratory songbirds or raptors".
- OR

- (b) Record a self extinguishing site brushing / limited grading easement deed which will require subsequent property owners to provide evidence that any site brushing, grading, and/or removal of vegetation within 300 feet of the project site was conducted during the non-breeding season for native songbirds and raptors, defined as September 1st to February 14th, prior to receiving a building permit.

Timing: Prior to approval of a building permit. **Monitoring:** The [DPLU, PCC] shall review a signed statement from a licensed engineer/surveyor confirming that any brushing, clearing or limited grading activities occurred during non-breeding season.

ONGOING: *(Upon establishment of use The following conditions shall apply during the term of this permit).*

- 6. INSTALLATION AND MAINTENANCE OF 8' HIGH WALL: Intent:** Provide the "same practical effect" as having a 100 foot fuel modification on the southern property line of lot 6, 7, 8, 30 and 31. Due to the projects inability to achieve 100 feet of fuel modification, the Maria Avenue Development Fire Protection Plan dated December 19, 2010 found that an 8 foot non-combustible wall would achieve the same practical effect. **Description of Requirement:** Construct and maintain an 8 foot high non-combustible wall for lots 6, 7, 8, and lots 30 and 31. The wall may be slump stone or CMU in earth tone color. The top four feet may be tempered glass, provided the wall is solid and non-combustible. **Timing:** Prior to approval of a building permit. **Monitoring:** The [DPLU, PCC] shall verify that that said wall has been built prior to issuing building permit.

ANY PERMIT: *(Prior to the approval of any plan, issuance of any permit, and prior to occupancy or use of the premises in reliance of this permit).*

- 7. FIRE RESTRICTION ZONE: [DPLU, PCC] [DGS, RP] [BP, GP, CP, UO] [DPLU, FEE X 2]. Intent:** In order to provide Defensible Space for the project, a Limited Building Zone (LBZ) Restriction for Fire Protection purposes shall be established to comply with the [County of San Diego Fire Code Section 96.1.4707](#) for Defensible Space. **Description of Requirement:** Grant to the County of San Diego a Limited Building Zone Easement over the entirety of Lot 30 as shown on the Rezone Exhibit 08-002. The Maria Avenue Development Fire Protection Plan dated December 19, 2010 found that this easement, when applied in conjunction with an 8 foot high non-combustible wall, will provide the same practical effect as a 100 foot fuel modification zone for Lot 31. The purpose of this easement is to mitigate any potential fire hazards associated with having a 5 foot side-yard setback on Lot 31. The only exceptions to this prohibition are:

- a. Decking, fences, and similar facilities.
- b. Sheds, gazebos, and detached garages, less than 250 square feet in total floor area, that are designed, constructed and placed so that they do not require clearing or fuel modification offsite within the CALTRANS right-way.
- c. If a building permit is issued on lot 29 Block 49 Map No. 441 (the southern lot outside the Maria Avenue project boundaries), the limited building easement on Lot 30 shall be extinguished because it will no longer be adjacent to an undeveloped wildland area. It is assumed that any future development on lot 29 will need to provide an adequate defensible space boundary prior to being issued a building permit.

Documentation: The applicant shall prepare the draft plats and legal descriptions of the easements, then submit them for preparation and recordation with the *[DGS, Real Property Division]*, and pay all applicable fees associated with preparation of the documents. Upon Recordation of the easements, the applicant shall provide copies of the recorded easement documents to *[DPLU, PCC]* for approval. **Timing:** Prior to Planning Commission Hearing. **Monitoring:** The *[DGS, RP]* shall prepare and approve the easement documents and send them to *[DPLU, PCC]* for pre approval. The *[DPLU, PCC]* shall pre-approve the language and estimated location of the easements before they are released to the applicant for signature and subsequent recordation. Upon Recordation of the easements *[DGS, Real Property Division]* shall forward a copy of the recorded documents to *[DPLU, PCC]* for satisfaction of the condition.

3. Critical Project Design Elements That Must Become Conditions of Approval:

The following project design elements were either proposed in the project application or the result of compliance with specific environmental laws and regulations and were essential in reaching the conclusions within the attached Environmental Initial Study. While the following are not technically mitigation measures, their implementation must be assured to avoid potentially significant environmental effects.

Not Applicable.

ADOPTION STATEMENT: This Mitigated Negative Declaration was adopted and above California Environmental Quality Act findings made by the:

on _____

Jarrett Ramaiya, Planning Manager
Project Planning Division